IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3855 of 1990

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMRATLAL NARSIBHAI PATEL

Versus

ADDL. CHIEF ADMINISTRATOR

Appearance:

1. Special Civil Application No. 3855 of 1990
NOTICE SERVED for Petitioner No. 1
RULE SERVED for Respondent No. 1-2

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 20/10/2004

ORAL JUDGEMENT

1. The petitioner, a cabin holder nearby GIDC area, Vapi, has prayed for protection for his cabin, which is sought to be removed by the respondents on the ground

that the said cabin is obstructing the traffic and the cabin was put up without following due procedure of law. The case of the petitioner is that he is carrying out carpentry work in the said cabin for the last 20 years and that is the only source of his livelihood. It is further averred that the representation made by the petitioner to consider his case sympathetically was also not considered in its true spirit.

2. While admitting this petition, the Court, by order dated 23rd May 1990 granted protection in terms of prayer 8(b) whereby the respondents were restrained from removing the petitioner from his cabin situated near GIDC area, Vapi.

3. The said direction continues for last 14 years. Today, when the matter is called out for final hearing, neither the petitioner nor his advocate is present. No affidavit-in-reply is filed by the respondents.

4. In the facts and circumstances of the case, and in the interest of justice, it is directed that the petitioner shall not be removed from his cabin situated near Gunjan Cinema, GIDC area, Vapi, without following procedure of law much less without giving any opportunity of hearing or notice asking the petitioner to show cause by the respondents-Authorities. As and when such notice is given to the petitioner, it is open for the petitioner to give appropriate reply and, in case any adverse order is passed, it is open to him to take appropriate action as may be available in accordance with law. Rule is made absolute to the aforesaid extent only with no order as to

(Anant S. Dave, J.)
(swamy)